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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination, the Arab Lawyers Union, the Arab Organization for Human Rights, International-Lawyers.org, IUS PRIMI VIRI International Association and the Union of Arab Jurists, non-governmental organizations in special consultative status, and International Educational Development, Inc. and the World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Born into Injustice: The Impact of Institutionalized Discrimination on Palestinian Children*

Palestinian children fall victim to a system that discriminates against them on the basis of their national belonging from the very day they are born. The discriminatory legal system reigning in the occupied West Bank, according to which Palestinians are governed by a repressive military system whilst illegal settlers are governed by domestic civil and criminal law, is reflective of Israel's larger policies. These entail strategic and institutionalized discrimination against Palestinians regardless of their residence and are intended to dominate the Palestinian people as a whole. The discriminatory application of policies to different populations within the same jurisdiction violates Palestinian children's most fundamental human rights. This statement focuses on the detrimental impact on their right to home, family life and residency; deprivation of liberty; and the right to health.

Right to Home, Family Life, and Residency

The persistent expansion of unlawful settlements and the Separation Wall, land confiscation, house demolitions and destruction of livelihood, and subsequent expulsions for the sake of Jewish settlement severely and continuously violate the rights of Palestinian children and their families. As a consequence of home evictions and demolitions, uncountable families and children are forced into displacement. A matter of grave concern is the psychological violence inflicted on Palestinian children as a consequence of such acts.

In contravention to Article 7 of the Convention on the Rights of the Child (CRC), Israel denies thousands of Palestinian children the right to a nationality and family life, rendering many of them stateless. Since the 1980s, the Israeli Interior Minister has used his vast powers of discretion under Article 12 of the Entry into Israel Regulations to deny registration of Palestinian children1. Since Israel banned family reunification in 20032, many Palestinian children born outside the Israeli-defined municipal boundaries of Jerusalem, or with a parent without Jerusalem residency status, have received only short-term permits to stay, jeopardizing their future right to enter and reside in occupied East Jerusalem. Even children who have lost one parent are prevented from reuniting with their surviving parent in the West Bank.

The myriad of opaque and constantly changing procedures when applying for family reunification hampers the ability of Palestinian parents of securing permanent residency in Jerusalem. This results in tens of thousands of Palestinian children being unregistered, which negatively affects their access to education, health, and other social services.

As Israel controls the population registry of the entire population of Gaza, Palestinian residents are deprived of the basic right to family life and to choose where to live. Israel refuses the registration of Gaza residents who move to the West Bank, therefore defining them as "illegal residents" of the West Bank. Even if a Palestinian resident of Gaza marries a West Bank resident, is employed, resides, and has children in the West Bank, the status of "illegal resident" remains. Therefore, s/he is subject to a constant threat of expulsion.

Under the sweeping restrictions on family unification, thousands of Palestinian children are thus robbed of their right to live and grow up in a family environment with either one or both of their parents or with their siblings and live under the constant fear of separation.

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1 The Minister regularly handed out denials of child registration if the child's father is not a Jerusalem resident or if the child was born outside Israel or East Jerusalem; required proof of "center of life" in Jerusalem for child registration; or demanded the submission by parents of a request for family reunification for their children instead of simple registration.

2 The Citizenship and Entry into Israel Law (Temporary Order) 5763, also known as the Ban on Family Reunification, was first passed on 31 July 2003 and has been continuously extended since. Aiming to limit the number of Palestinians within Israel proper, the law disproportionately affects Palestinian citizens of Israel wishing to be reunited with their families in Israel, who are prohibited from extending their citizenship to Palestinian spouses from occupied Palestinian territories as well as to their children.

Deprivation of Liberty

Israel's divergent legal systems and courts apply discriminatory standards of evidence and procedure to Palestinians, which implicate severe, disproportionate and often baseless penalties while Jewish Israeli perpetrators are ordinarily endowed with impunity3. Palestinian children are the first victims of this discriminatory justice system – with severe implications for their long-term development and wellbeing.

Israel has failed to establish a separate juvenile justice system to try accused Palestinian children and continues to subject them to the same arrest, interrogation, and trial and imprisonment procedures as adults, often transferring them into Israeli prisons. Israel has taken no steps to improve the treatment of child detainees. Palestinian children, sometimes as young as 8 years old, are prosecuted under the Israeli Military Court system in contradiction to international standards. On 3 August 2016, the Israeli Knesset adopted the Youth Bill, officially providing for the imprisonment of Palestinian children as young as 12 years if convicted of "terrorism" against Israeli civilians or military personnel.

In contravention to CRC, an estimated number of 500-700 Palestinian children are arrested each year (A/69/355). Palestinian children are typically detained for six to nine months on charges of stone-throwing, which is punishable by up to 20 years in prison. The recent wave of protests has been marked by a significant increase in children being subjected to Israeli military detention. Around 350 child prisoners are in detention as of 26 January 20184.

Routinely arrested by Israeli soldiers in their homes in the middle of the night, children are blindfolded and hands bound, and forcibly taken to unknown destinations – Israeli prisons or West Bank settlements – for interrogations, which proceed without the presence of the child's lawyer or parents or without formal recordings. Night raids gravely affect Palestinian children, many of whom suffer from insomnia, bed-wetting, and nightmares. The transfer of Palestinian child detainees into Israel, which proceeds in 60 percent of cases, is a grave breach of international law.

Palestinian minors are ordinarily deprived of basic fair trial rights in Israel's military court system5 and suffer from deplorable conditions in Israeli detention facilities. Children are often held in solitary confinement, sometimes for prolonged periods, and are denied family visits. During arrest and interrogation, they are systematically subjected to physical and verbal violence and humiliation, including painful sacking and hooding; threats of death, violence, and sexual assault against themselves or family members; and denial of food and water. Many Palestinian children undergo interrogation while sleep deprived and injured, and have to sign documents written in Hebrew, a language they rarely understand. The ill-treatment of Palestinian children in the Israeli military detention system is widespread and systematic and in grave violation of international law, which protects all children against ill-treatment in the context of law enforcement, military and judicial institutions. From a sample of 520 Palestinian children detained between 2012 and 2016, 72 percent reportedly faced physical violence and 66 percent were submitted to verbal abuse and humiliation6.

A case in point is the recent arrest of 16-year-old Ahed Tamimi. The girl was detained in an overnight raid on her home by the Israeli army and border police on 19 December 2017. After forcing the family into one of the rooms and searching their household contents, at least 30 soldiers arrested Ahed without providing reasons. As of 26 January 2018, the girl is still is military custody, while having been transferred between different Israeli prisons. She has been indicted on 12 charges, including alleged assault, "incitement" and past instances of stone-throwing, for which she might face up to 10 years in prison.

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3 Whereas the conviction rate of Palestinians amounts to almost 100 percent in Israeli military courts, complaints filed by Palestinians only results in conviction of Israeli perpetrators in 1.9 percent of cases.

4 http://www.addameer.org/statistics

5 The frequent and extensive use of administrative detention under Military Order No. 1591 and the Emergency Powers (Detention) of 1979 Law infringes on child detainees' rights to a fair trial. Israel violates the right to be informed promptly and in detail, in a language understandable, of the nature of the charge against them, to have adequate time and facilities for the preparation of a defense and to communicate with a counsel of the own choosing, to be tried in their presence, and to defend themselves in person or through legal assistance of their own choosing (see Arts. 4, 14 and 24).

6 http://www.dci-palestine.org/violations_against_palestinian_children_spike_amid_protests_over_u_s_jerusalem_move

Right to Health

In direct contravention of Article 24 of the CRC, Israel deprives Palestinian children of their right to healthcare. In the West Bank, movement restrictions severely impede Palestinian children's access to adequate medical care. At checkpoints, Israeli forces routinely refuse passage to Palestinians, including children whose lives are endangered. Palestinian children residing in Area C are extremely vulnerable to health, especially due to Israeli control over land and movement, as well as the depletion of the healthcare sector. Access to medical care and proper hygienic conditions is also jeopardized by settler and military violence in Area C. Whilst East Jerusalemite Palestinians pay taxes, their welfare system is gravely underfunded and government services inadequate. Palestinian children living in Israel, especially in "unrecognized" villages in the Negev, also have unequal access to or are deprived of basic health services. As a result, the infant mortality is considerably higher.

Israel's siege and recurrent military operations in Gaza claim the lives of uncountable Palestinian children, inflict severe and permanent physical injuries, and have highly adverse and cumulative effects on their psychological wellbeing. Yet, the health system suffocates under the blockade and attacks on and destruction of medical facilities brought the health system to its knees.

Children show high levels of stress, despair, hopelessness, and powerlessness. Moreover, a rise in domestic violence, post-traumatic stress disorders, and recurring haunting memories of experienced horrors have been documented. Physically, children suffer from blood disorders and sanitation induced diseases such as watery diarrhea and typhoid, from anemia and chronic malnutrition. However, hospitals are short on drugs and equipment and are gravely affected by electricity cuts and fuel shortages. Patients' treatment outside Gaza is rendered almost impossible due to Israel's permit system, causing the death of many children.

Conclusion and Recommendations

Palestinian children fall victim to a discriminatory system, under which fundamental rights such as a healthy upbringing in a stable home and family environment are gravely obstructed. The full enjoyment of Palestinian children of their human rights will only be possible if Israel's occupation and institutionalized discrimination is brought to an end. As immediate measures, the undersigning organizations recommend to the UN and in particular to the Human Rights Council (HRC) to compel Israel to:

- Cease all settlement and annexationist activities and refrain from demolishing Palestinian homes and property;
- Allow for the registration of every Palestinian child immediately after birth and ensure instantaneous family reunification;
- Fundamentally reform its justice system, in particular for juveniles, in compliance with international standards, notably the CRC;
- Cease all policies and practices endangering the physical and psychological wellbeing of Palestinian children and grant unfettered access to healthcare to all populations without discrimination.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, The Brussells Tribunal, Euro-Mediterranean Human Rights Monitor, Association of Humanitarian Lawyers (AHL), The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, International Anti-Occupation Network (IAON), NGOs without consultative status, also share the views expressed in this statement.